



Friday, 7 June 2019

Weekly Intellectual Property Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Intellectual Property Law

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Executive Summary (1 minute read)

Hells Angels Motorcycle Corporation (Australia) Pty Limited v Redbubble Limited (FCA) - trade mark - copyright - determination of declarations and orders arising from judgment in principal proceeding

Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (Permanent Stay) (FCA) - stay - trade mark - abuse of process - failure by non-party to give discovery concerning allegations in Third Further Amended Cross-Claim - Third Further Amended Cross-Claim permanently stayed

Summaries With Link (Five Minute Read)

Hells Angels Motorcycle Corporation (Australia) Pty Limited v Redbubble Limited [2019]

FCA 815

Federal Court of Australia

Greenwood J

Trade mark - copyright - applicant, in principal proceeding, succeeded concerning 'particular examples' of infringement by first respondent of 'particular trade marks' which applicant owned - applicant did not succeed on 'copyright claims' - determination of declarations and orders to be made - whether utility in making declarations concerning copyright claims - whether to 'qualify restraint' on first respondent - consideration of first respondent's 'selfregulation protocol' - absence of undertaking by first respondent - held: declarations and orders made.

[Hells Angels](#)

[From Benchmark Tuesday, 4 June 2019]

Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (Permanent Stay) [2019] FCA 802

Federal Court of Australia

Perram J

Stay - trade mark - 'Third Further Amended Cross-Claim' ('Cross-Claim') had been stayed since 20/11/17 - cross-respondent sought Cross-Claim's dismissal or permanent stay - Cross-Claimants sought lift of stay - stay had been placed due to non-party Russian Federation's failure 'to give adequate discovery' of material pertaining to Cross-Claim's subject matter - s88 *Trade Marks Act 1995* (Cth) - whether to dismiss proceeding for want of prosecution - whether abuse of process - held: Third Further Amended Cross-Claim permanently stayed as abuse of process insofar as its allegations concerned topics on which Russian Federation had 'failed to give discovery'.

[Federal Treasury Enterprise](#)

[From Benchmark Friday, 7 June 2019]

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To a Locomotive in Winter

By: Walt Whitman

Thee for my recitative,
Thee in the driving storm even as now, the snow, the winter-
day declining,
Thee in thy panoply, thy measur'd dual throbbing and thy
beat convulsive,
Thy black cylindric body, golden brass, and silvery steel,
Thy ponderous side-bars, parallel and connecting rods,
gyrating, shuttling at thy sides,
Thy metrical, now swelling pant and roar, now tapering in
the distance,
Thy great protruding head-light fix'd in front,
Thy long, pale, floating vapor-pennants, tinged with delicate
purple,
The dense and murky clouds out-belching from thy smoke-
stack,
Thy knitted frame, thy springs and valves, the tremulous
twinkle of thy wheels,
Thy train of cars behind, obedient, merrily following,
Through gale or calm, now swift, now slack, yet steadily
careering;
Type of the modern—emblem of motion and power—pulse of
the continent,
For once come serve the Muse and merge in verse, even
as here I see thee,
With storm and buffeting gusts of wind and falling
snow,
By day thy warning ringing bell to sound its notes,
By night thy silent signal lamps to swing.

Fierce-throated beauty!
Roll through my chant with all thy lawless music, thy
swinging lamps at night,
Thy madly-whistled laughter, echoing, rumbling like an
earthquake, rousing all,
Law of thyself complete, thine own track firmly holding,
(No sweetness debonair of tearful harp or glib piano thine,)
Thy trills of shrieks by rocks and hills return'd,
Launch'd o'er the prairies wide, across the lakes,
To the free skies unpent and glad and strong.



https://en.wikipedia.org/wiki/Walt_Whitman

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